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6 *Attorneys for Plaintiff*

7 **UNITED STATES DISTRICT COURT**

8 **DISTRICT OF NEVADA**

9 PARNELL COLVIN,

10 Case No.: 2:20-cv-01765-APG-EJY

11 Plaintiff,

12 vs.

13 M.J. DEAN CONSTRUCTION, INC.;
14 DOES I through X; AND ROE
CORPORATIONS XI-XX, INCLUSIVE,
inclusive;

15 **DISCOVERY PLAN AND SCHEDULING
ORDER SUBMITTED IN COMPLIANCE
WITH LR 26-1(b)**

16 Defendant.

17
18 Pursuant to Federal Rule of Civil Procedure 26(f) and Local Rule of Practice 26-1, the parties,
19 by and through their respective counsel of record hereby stipulate to and request that the Court enter
20 the following discovery plan and scheduling order:

21 1. **Fed. R. Civ. P. 26(f) Conference:** On December 31, 2020, the parties held a telephonic
22 conference to discuss issues required by Fed. R. Civ. P. 26(f) and LR 26-1. Ines Olevic-Saleh, Esq. of
23 the law firm of JESSE SBAIH & ASSOCIATES, LTD. appeared for Plaintiff Parnell Colvin (“Plaintiff”
24 or “Mr. Colvin”); and Robert Rosenthal, Esq. of the law firm of HOWARD AND HOWARD appeared
25 on behalf of Defendant M.J. Dean Construction, Inc. (“Defendant” or “M.J. Dean”).

26 2. **Initial Disclosures:** Initial Disclosures are due **January 15, 2021**.

27 3. **Discovery Cut-off Date:** **May 17, 2021**, which is six (6) months from the date the first
28 Defendant appeared in the case.

1 4. **Amending the Pleadings and Adding Parties:** All motions to amend the pleadings or
 2 to add parties shall be filed not later than **February 16, 2021**, which is ninety (90) days before the
 3 discovery cut-off date.

4 5. **Fed. R. Civ. P. 26(a) Disclosures (Experts):** Disclosures concerning initial experts shall
 5 be made by **March 18, 2021**, which is sixty (60) days before the discovery cut-off date. Disclosures of
 6 rebuttal experts shall be made by **April 19, 2021**¹, which is thirty-two (32) days after the initial
 7 disclosure of experts.

8 6. **Dispositive Motions:** The date for filing dispositive motions shall be not later than **June**
 9 **16, 2021**, which is thirty (30) days after the discovery cut-off date.

10 7. **Pretrial Order:** The date for filing the joint pretrial order shall not be later than **July 16,**
 11 **2021**, thirty (30) days after the date set for filing dispositive motions. In the event dispositive motions
 12 are filed, the date for filing the joint pretrial order shall be suspended until thirty (30) days after decision
 13 on the dispositive motions or until further order of the Court. The parties shall include the disclosures
 14 required pursuant to Fed. R. Civ. P. 26(a)(3), and any objections thereto, with the pretrial order.

15 9. **Fed R. Civ. P. 26(f)(3) Scope of Discovery:**

16 A. The Parties agree that discovery should extend to the full extent allowed by the Federal
 17 Rules of Civil Procedure.

18 B. The Parties anticipate that discovery will be required of electronically stored information,
 19 which will likely be substantial and voluminous. The Parties agree that electronically stored information
 20 will be initially produced in hard copy and native format if subsequently requested by a party.

21 10. **Alternative Dispute Resolution:** The parties certify they met and discussed the
 22 possibility of using alternative dispute-resolution processes including mediation and arbitration.

23 11. **Alternative Forms of Case Disposition:** The parties certify that they considered
 24 consent to trial by magistrate judge and the use of the Short Trial Program and opted out of such
 25 programs.

26
 27 1The 30-day deadline falls on a Saturday. Thus, two (2) additional days were added for the deadline to fall on a workday.
 28

1 **12. Electronic Evidence:** The parties certify that electronic evidence was discussed and that
2 there is presently an intent to present electronic evidence to a jury.

3 **13. Settlement:** In accordance with Fed. R. Civ. P. 26(f), the Parties discussed settlement
4 but have not reached any agreement at this time.

5 **14. Later Appearing Parties:** A copy of this Discovery Plan and Scheduling Order shall be
6 served upon any person served after it is entered or, if additional defendants should appear, within five
7 (5) days of their first appearance. This Discovery Plan and Scheduling Order shall apply to such later
8 appearing parties, unless a stipulation of the parties is approved by the Court, or the Court, on motion for
9 good cause shown, otherwise orders.

10 **15. Additional Information:**

11 **Additional Provisions Regarding Inadvertent Disclosure/Clawback**

12 In addition to the protections provided in Rule 26(b)(5)(B) regarding inadvertent production of
13 information subject to a claim of privilege or of protection as trial-preparation material, the Parties agree
14 that disclosure of any document produced in this action that could have been withheld, in whole or in
15 part, based on a legitimate claim of attorney-client privilege, work-product protection, or other applicable
16 privilege (an “Inadvertently Produced Document”) shall not result in the waiver of any privilege or
17 protection associated with such document, nor result in a waiver of any kind.

18 Within fourteen (14) days of a demand for the return of any Inadvertently Produced Document,
19 the producing party shall provide the receiving party with a privilege log setting forth the basis for the
20 claim of privilege in relation to the Inadvertently Produced Document. In the event that some portion of
21 the Inadvertently Produced Document does not contain privileged information, the producing party will
22 also provide a redacted copy of the Inadvertently Produced Document that omits the information subject
23 to the claim of privilege.

24 If the receiving party disagrees with the producing party’s designation of an Inadvertently
25 Produced Document as privileged, it may object to such a designation by providing written notice within
26 fourteen (14) days of receipt of a written demand for return of the subject Inadvertently Produced
27 Document. Should the parties fail to reach agreement following a meaningful attempt to resolve the
28 dispute, any such objection shall be resolved by the Court after an *in camera* review of the Inadvertently

1 Produced Document. No party may use any disputed document in the litigation while resolution of such
2 a dispute is pending.

3

4 **Defendant's November 17, 2020 Pending Motion to Dismiss Plaintiff's Causes of Action for**
5 **Negligent Infliction of Emotional Distress, Intentional Infliction of Emotional Distress,**
6 **Vicarious Liability/Respondeat Superior and Negligent Hiring, Training and Supervision**

7 On November 17, 2020, Defendant filed a Motion to Dismiss the following causes of action
8 alleged by Plaintiff: Negligent Infliction of Emotional Distress, Intentional Infliction of Emotional
9 Distress, Vicarious Liability/Respondeat Superior and Negligent Hiring, Training and Supervision.
10 Defendant has not sought to dismiss Plaintiff's causes of action for Retaliation, Discrimination or
11 Harassment. The Court has not yet ruled on Defendant's Motion to Dismiss.

12 Because Defendant's Motion to Dismiss is dispositive regarding 4 of Plaintiff's 7 claims,
13 Defendant respectfully requests that all dates in the subject Discovery Plan and Scheduling Order should
14 be stayed until the Court issues a decision on Defendant's Motion to Dismiss in order to avoid discovery
15 that is unnecessary or is conducted in piecemeal fashion.

16 Plaintiff opposes the stay.

17 16. **Court Conference:** The Parties do not request a conference with the Court before the
18 entry of the Scheduling Order.

19 17. **Extension of Discovery Deadlines:** Requests to extend the discovery deadlines set forth
20 in this Stipulated Discovery Plan and Scheduling Order must be filed with the Court no later than
21 twenty-one (21) days prior to the expiration of the subject deadline.

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 **18. Discovery Conference**

2 Pursuant to LR II 56-1(c), before moving for an order relating to discovery, the moving party
3 must request a conference with the assigned magistrate judge.

4 Dated this 5th day of January, 2021.

5 Dated this 5th day of January, 2021.

6 JESSE SBAIH & ASSOCIATES, LTD.

7 HOWARD & HOWARD ATTORNEYS PLLC.

8 */s/ Ines Olevic-Saleh*

9 */s/ Robert Rosenthal*

10 Jesse M. Sbaih, Esq.

11 Robert L. Rosenthal, Esq.

12 Nevada Bar No. 7898

13 Nevada Bar No. 6476

14 Ines Olevic-Saleh, Esq

15 Martin a. Little, Esq

16 Nevada Bar No. 11431

17 Nevada Bar No. 7067

18 170 South Green Valley Parkway, Suite 280

19 3800 Howard Hughes Parkway, Suite 1000

20 Henderson, Nevada 89012

21 Las Vegas, Nevada 89169

22 Attorneys for Plaintiff

23 Attorneys for Defendant

24 **IT IS SO ORDERED:**

25

UNITED STATES MAGISTRATE JUDGE

26 DATED: _____

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Subject: [FWD: RE: Proposed Discovery Plan]
From: iolevic@sbaihlaw.com
Date: Tue, Jan 05, 2021 2:33 pm
To: "jdavidson@sbaihlaw.com" <jdavidson@sbaihlaw.com>
Attach: image001.png
hh_logo_0f1dbc0-80ba-4943-b445-368a57555dd0.png

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----- Original Message -----

Subject: RE: Proposed Discovery Plan
From: "Robert L. Rosenthal" <rrosenthal@howardandhoward.com>
Date: Tue, January 05, 2021 2:12 pm
To: "iolevic@sbaihlaw.com" <iolevic@sbaihlaw.com>

Of course.



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Sent: Tuesday, January 5, 2021 1:00 PM

To: Robert L. Rosenthal <rrosenthal@howardandhoward.com>

Subject: RE: Proposed Discovery Plan

CAUTION: EXTERNAL EMAIL

Thank you.

I am agreeable to the added language as long as we can also add a sentence conveying that we oppose any stay. Specifically, as follows:

Because Defendant's Motion to Dismiss is dispositive regarding 4 of Plaintiff's 7 claims, Defendant respectfully requests that all dates in the subject Discovery Plan and Scheduling Order should be stayed until the Court issues a decision on Defendant's Motion to Dismiss in order to avoid discovery that is unnecessary or is conducted in piecemeal fashion.

Plaintiff opposes the stay.

If this is acceptable to you, we will proceed with filing.

Best regards,

Ines Olevic-Saleh, Esq.

JESSE SBAIH & ASSOCIATES, LTD.

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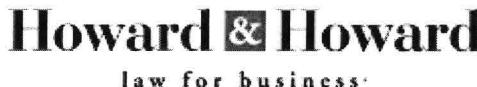
Subject: Proposed Discovery Plan
From: "Robert L. Rosenthal" <rrosenthal@howardandhoward.com>
Date: Tue, January 05, 2021 12:11 pm
To: "iolevic@sbaihlaw.com" <iolevic@sbaihlaw.com>
Cc: "Kirill V. Mikhaylov" <kvm@h2law.com>, Barbara Dunn
<bdunn@howardandhoward.com>

Ines,

I just had a couple of additions (see attached). Assuming you do not have any other changes, you have my authority to file.

Thanks,

Rob



Robert L. Rosenthal
Attorney and Counselor

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1/5/2021

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